



121 W. FIREWEED SUITE 120 | ANCHORAGE, ALASKA | 99503 | 907.563.9229 | ALASKAMINERS.ORG

October 14, 2022

BLM Alaska State Office  
ATTN: PLO EIS  
222 W. 7th Ave, Stop #13  
Anchorage, AK 99513  
*Submitted online*

Re: Comments on EIS for ANCSA 17(d)(1) Withdrawal Revocations

To Whom It May Concern:

The Alaska Miners Association (AMA) offers the following comments in response to the August 16, 2022 Notice of Intent to prepare an Environmental Impact Statement (EIS) to consider the effects of opening lands currently subject to withdrawals established pursuant to Section 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA).

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, and major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

In 2006 BLM submitted a report to Congress to address Section 207 of the Alaska Land Transfer Acceleration Act in which it stated that the agency's RMP (resource management plan) process would be used to evaluate the ANCSA Section (d)(1) withdrawals. These withdrawals, as established in the early 1970s, were by definition, temporary, lasting only the duration of the land settlement process in Alaska.

Throughout development of resource management plans over the last 20 years, AMA has consistently recommended the revocation of ANCSA 17(d)(1) withdrawals. This position is justified in our previous, lengthy comments during development of the BLM's Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire RMPs.

Each of these RMPs included an EIS that fully addressed the potential impacts of various alternative actions regarding revocation of the (d)(1) withdrawals. These five RMPs were subject to extensive public review, including public meetings in numerous communities.

Now that over 50 years have passed since their establishment, and more than 95% of State and Native land selections have been adjudicated, it is long past time for the temporary (d)(1) withdrawals to be lifted.

Therefore, the Alaska Miners Association again recommends that most ANCSA 17(d)(1) withdrawals in BLM's Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire Resource Management Plans (RMP) be revoked.

Considering that BLM has already evaluated the impacts of the revocation of the (d)(1) withdrawals through these five RMPs and their associated EISs, it is neither necessary or appropriate to further study this issue. Rather, we recommend BLM implement the following decisions regarding (d)(1) withdrawals made in the associated Records of Decisions (RODs):

**BLM Bay RMP (Bristol Bay).** Record of Decision Issued: 11/14/2008, signed by BLM State Director Tom Lonnie. From page 4 of the ROD: “The RMP recommends the Secretary of Interior revoke of all ANCSA 17(d)(1) withdrawals as described in Public Land Orders 5174, 5179, 5180, 5181, 5184, and 5186.”

**BLM Bering Sea – Western Interior RMP.** Record of Decision Issued January 20, 2021, signed by BLM Director David Bernhardt. “Additionally, all four of the action alternatives (Alternatives B-E) consider the revocation of existing ANCSA 17(d)(1) withdrawals.”

**BLM East Alaska RMP.** Record of Decision Issued: 09/07/2007, signed by BLM State Director Tom Lonnie. From page 6 of the ROD: “The primary management decisions in the Approved Plan are to:...

- Recommend revocation of 84% of the existing ANCSA 17(d)(1) withdrawals (Note – on page 7 it says 80%), 6.0 million acres available to locatable mineral entry

**BLM Kobuk – Seward Peninsula RMP (NW Alaska).** Record of Decision Issued: 09/04/2008 signed by BLM State Director Tom Lonnie. From page 15 of the ROD: “The Approved RMP recommends revocation of all ANCSA Section 17(d)(1) withdrawals.” Also see language on page 12.

**BLM Ring of Fire RMP.** Record of Decision Issued: 03/21/2008, signed by BLM State Director Tom Lonnie. From page 12 of the ROD: “The BLM recommends the revocation of the existing ANCSA 17(d)(1) withdrawals within the planning area”.

If BLM does choose to proceed as proposed in the August 16, 2022 notice, AMA recommends that BLM prepare a Supplemental EIS to specifically address the “legal defects” that caused BLM to suspend implementation of the revocation decisions issued by the Secretary of Interior in January 2021. These “legal defects” are referred to in the August 16 notice but to our knowledge have never been articulated in detail. The first step in any new EIS process, therefore, is for BLM to clearly articulate what they consider to be the legal defects in the previous 5 RMPs/EISs/. The new Supplemental EIS process needs only to address these specific “defective” issues. BLM should use this Scoping process to identify what new information it believes needs to be considered.

AMA has a number of comments regarding the defects BLM asserts regarding the decision-making process for the PLOs. These issues need to be addressed in order to narrow the focus of the EIS process. Specifically:

- BLM asserts there was insufficient analysis under the National Environmental Policy Act. The 5 previous RMPs and associated EISs each contain hundreds of pages of analyses of potential impacts. For what specific issues does BLM claim there was insufficient analysis?
- BLM asserts inadequate consultation under Section 106 of the National Historic Preservation Act (NHPA). What specific steps in each of the five RMP areas were omitted in the previous RMP/EIS processes that need to be taken to comply with NHPA?

- BLM asserts possible failure to adequately evaluate impacts under Section 7 of the Endangered Species Act (ESA). Again, BLM must identify and list the specific failures in each of the previous EISs. All BLM discussion of this issue to date refer only to “possible failure”. BLM has now had more than a year to identify specific failures, if any indeed exist.
- BLM asserts failure to secure consent from the Department of Defense (DoD) with regard to lands under DoD administration as required by Section 204(i) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1714(i)). This “lack” can be remedied by simple coordination with DoD and in no way requires new or supplemental EISs. If such coordination is required prior to lifting any withdrawals under DoD administration, would such coordination not already have occurred in order to address similar revocation of ANCSA 17(d)(1) withdrawals to accommodate Alaska Native Vietnam Era Veteran Allotments?
- BLM asserts failure to adequately analyze potential impacts on subsistence hunting and fishing, and reliance on “potentially” outdated data in the EISs prepared in 2006 and 2007. The five existing RMPs/EISs included extensive analysis of impacts to subsistence hunting and fishing, including that required under Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA). Additional analysis is unnecessary for the Bering Sea-Western Interior RMP as that RMP was completed in 2021. For the 4 older RMPs, BLM could update information with a supplemental EIS that includes newer data. This particular “failure” of “outdated data” as claimed by the BLM, highlights a glaring failure in their land use planning process. When each RMP/EIS process takes 5-10 years to complete, all data used at the start of the process is by definition, no longer up-to-date on completion.

If BLM proceeds with a full or Supplemental EIS, one issue that could be addressed is ensuring access to critical minerals, including rare-earth elements (REE). These are essential components in many modern products: from cell phones to clean energy technology. The United States currently lacks sufficient domestic supplies for many of these minerals, which causes elevated economic and national security risk due to potential supply-chain disruptions. This issue has not been adequately addressed in previous discussions of revoking the 17(d)(1) withdrawals. Revoking withdrawals enables additional grass-roots exploration and possible discovery of new sources of these minerals. Many BLM lands subject to these withdrawals have been off limits to staking of mining claims for over 50 years and only in the last decade has awareness of the urgent need to look for such deposits been raised. Any potential supplemental EIS needs to consider the negative impacts that continued closures of these lands will have on the ability to discover critical strategic minerals.

As noted, AMA in good faith has provided numerous and lengthy comments throughout each of the RMP processes. Each existing RMP and EIS thoroughly addressed the issues related to revocation of the d-1 withdrawals. It is unfair to again ask the public, including AMA, to review and comment on issues for which we have already provided extensive input to BLM.

We, along with many other public participants are frustrated that each new Federal administration (every four or eight years) insists on re-visiting this issue. Since recent BLM RMP plans and revisions have taken upwards of a decade to develop, at this rate BLM will never reach a point of implementing any decisions regarding these withdrawals. Thus, the RMP/EIS planning “process” becomes merely an exercise in paperwork for BLM staff, and accomplishes little or nothing in the way of managing actual projects on, and products, from, Federal land.



AMA and other organizations that have participated in the BLM land planning process for decades find it incredibly frustrating that 50 years after these temporary withdrawals were put in place, they still stand. BLM has analyzed and re-analyzed whether or not to revoke the withdrawals, made numerous recommendations to do so, but has largely not implemented decisions BLM previously made.

Sixteen years ago, BLM's own June 2006 report to Congress ("Section 207 Alaska Land Transfer Acceleration Act, A Review of d-1 Withdrawals") determined that the withdrawals were largely outdated and unnecessary. The following is from page 5 Summary section of the Executive Summary of the "Report to Congress June 2006 Sec. 207 of the Alaska Land Transfer Acceleration Act":

*"The ANCSA withdrawals were intended to protect resources, to prevent encumbrances that could interfere with State or Native entitlements, and to study lands for further inclusion into conservation units. In the early 1970s when the lands were withdrawn under Section 17(d)(1) and (d)(2) of the ANCSA, there were few regulations to oversee the development of the public lands and protect important natural resources. Since then Congress has passed significant legislation for the orderly development of the public lands and to protect the environment from adverse impacts. The BLM has 1) developed extensive oil and gas lease stipulations, required operating procedures (ROPs), and surface management regulations for miners, which are now in place and sufficient to assess and protect the resources in most situations, 2) the selection period is over and the BLM is completing conveyance of State and Native entitlements, and 3) more than 102,097,900 acres have been withdrawn by ANILCA and incorporated into CSUs sufficient to protect those lands.*

*In summary, there are more than 158,958,000 acres of d-1 withdrawals in Alaska. Many of these d-1 withdrawals have outlived their original purpose. It may be appropriate to lift many of d-1 withdrawals and the most effective and preferred means in managing this process is through BLM's land use planning process. Approximately 152,181,400 acres or 95% of these withdrawals could be lifted consistent with the protection of the public's interest."*

BLM and the American public do not need another multi-year process and hundreds of pages of analysis to address this issue. It is time to act.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "D Skibinski".

Deantha Skibinski  
Executive Director

cc: Senator Dan Sullivan  
Senator Lisa Murkowski  
Representative Mary Peltola